

## ATTACHMENT 5

### City of San Diego CEQA Significance Determination Guidelines

#### City Manager Recommendations Regarding Issues Listed in the Motion at the May 19, 2004 Land Use and Housing Committee Meeting

##### **A. Air Quality and Odor**

Staff concurs with this recommendation and the definition of “sensitive receptor” has been modified to include the groups of persons who are likely to be at the locations listed.

##### **B. Agricultural Resources**

Staff concurs with this recommendation and had added the following language: “the determination of substantial amount” cannot be based on any one numerical criterion (i.e., one acre), but rather on the economic viability of the area proposed to be converted. Much of the active farmland in the City of San Diego is owned by the City and managed by the Real Estate Assets Department (READ). For proposed conversions of these sites, the analyst should contact READ staff regarding the feasibility of existing agricultural operations and the potential for other economically viable agricultural operations. Another factor to be considered is the location of the area proposed for conversion. If the site itself is too small to be economically viable, would the proposed use affect the surrounding operations? For instance, the installation of a small housing complex on a formerly agricultural site may preclude or limit future pesticide spraying activities in an adjacent area with the potential to support food crops. For privately owned agricultural areas, staff should consult the Farm Bureau regarding the above size and locational factors.

##### **C. Biological Resources**

Staff concurs with this recommendation and publicly accessible locations of the referenced documents have been added to the thresholds as follows:

Biology Survey Guidelines:

<http://www.sandiego.gov/mscp/pdf/biosurvey.pdf>

Biology Guidelines:

<http://www.sandiego.gov/mscp/pdf/biolog.pdf>

MSCP Subarea Plan:

<http://www.sandiego.gov/mscp/pdf/subarea.pdf>

Environmentally Sensitive Lands Regulations:

<http://clerkdoc.sannet.gov/legtrain/mc/MuniCodeChapter14/Ch14Art03Division01>

##### **D. Geologic Conditions**

Staff does not concur with the first of these recommendations. The organization of the Development Services Department is such that geologic hazards are

evaluated at both the discretionary and ministerial phases of project approval. The primary purpose of review at the discretionary phase is to evaluate whether adverse geological conditions can be overcome, to identify design and construction techniques which can be used to overcome those conditions, and to determine whether the construction techniques would result in impacts to other resources (e.g., biological and/or historical). In many cases, geology reports submitted with applications for discretionary projects recommend relatively benign techniques (e.g., removal/recompaction of the upper-most soils or a pile foundation); in other cases extensive remedial grading may be required (e.g., in order to address an ancient landslide).

Regardless of the engineering solution proposed to address geologic conditions, the accepted design is enforced at the ministerial phase of project approval. Therefore, language in the proposed threshold, which requires consultation with the Geology Section of the Land Development Review Division, coupled with a condition specifying that final geological review will occur in the Building Development Review Division (re-named Building and Safety Division) prior to issuance of a building/grading permit, is considered adequate.

Staff concurs with the second recommendation regarding the addition of language as to what information should be included in the initial study when geological conditions are potentially significant; however, this does not necessitate a change to the thresholds.

Staff does not concur with the third and fourth recommendations to address sedimentation, erosion, and landform alteration in the Geologic Conditions section of the initial study. These issues are already addressed in the Water Quality and Visual Quality sections of the initial study.

Staff concurs with the recommendation to add a description of the Hazard Categories and has added the language to the Guidelines.

#### **E. Growth Inducement**

Staff does not concur with the recommendation to include additional questions to the Initial Study Checklist to describe possible gentrification/demographic effects of new development projects based on an increase in housing. CEQA (Guidelines Section 15064 (e)) would allow the City to use economic or social effects on people as a basis for determining whether a physical impact is significant. However, Section 15064 (c) of the Guidelines requires the City to consider the views held by members of the public in determining whether an effect will be adverse or beneficial. Therefore, if demographic changes were to be considered a potentially significant environmental impact, debate would result over whether the impact is adverse or beneficial, and preparation of an EIR would be required for this issue alone. Finally, staff is concerned that it would be speculative to determine that demographic changes could result from housing price increases

attributable to a project without requiring extensive, project-specific, economic analyses for individual projects.

#### **F. Health and Safety**

Staff concurs with this recommendation and has added the following information to clarify the accessibility of the references:

DSD Form DS-3163:

<http://www.sandiego.gov/development-services/industry/pdf/ds-3163.pdf>

Hazardous Materials Questionnaire, Bulletin 116:

<http://www.sandiego.gov/development-services/industry/pdf/dsd116.pdf>

SDMC Section 142.0412:

<http://clerkdoc.sannet.gov/legtrain/mc/MuniCodeChapter14/Ch14Art02Division04>

SDMC Section 141.1001 and 141.1002:

<http://clerkdoc.sannet.gov/legtrain/mc/MuniCodeChapter14/Ch14Art01Division10>

Sanborn maps: available at LDR offices

Fire Department records: available at

<http://www.sandiego.gov/fireandems/inspections/searches.shtml>

San Diego Local Enforcement Agency: Vicky Gallagher, (619) 533-3695

Discharge Permit from MWW: (619) 446-5000

Discharge Permit from RWQCB:

<http://www.swrcb.ca.gov/stormwtr/construction.html>

Airport Environs Overlay Zone (Diagram 132-03A): available at City Clerk or LDR offices; also, located in LDC Chapter 13, Article 2, Division 3

Runway Protection (Airport Approach Overlay) Zone (Diagram 132-02A): available at City Clerk or LDR offices; also, located in LDC Chapter 13, Article 2, Division 2.

#### **G. Historical Resources**

No recommendations were made.

#### **H. Hydrology**

Staff concurs with this recommendation and has added the following information to clarify the accessibility of the references:

FEMA Maps: available at LDR offices or at:

[http://store.msc.fema.gov/webapp/wcs/stores/servlet/CategoryDisplay?storeId=10001&catalogId=10001&langId=-1&categoryId=12001&parent\\_category\\_rn=12001&type=CAT\\_MAPPANEL&stateId=13011&countyId=13282&communityId=338357&stateName=CALIFORNIA&countyName=SAN+DIEGO+COUNTY&communityName=SAN+DIEGO%2CCITY%2FSAN+DIEGO+CO&dfirm\\_kit\\_id=&dfirmCatId=12009&isCountySelected=&isCommSelected=&userType=G&urlName=&HashKey=&MemberKey=&mandatoryKey=&urlUserType=G&cat\\_state=13011&cat\\_county=13282&cat\\_community=338357](http://store.msc.fema.gov/webapp/wcs/stores/servlet/CategoryDisplay?storeId=10001&catalogId=10001&langId=-1&categoryId=12001&parent_category_rn=12001&type=CAT_MAPPANEL&stateId=13011&countyId=13282&communityId=338357&stateName=CALIFORNIA&countyName=SAN+DIEGO+COUNTY&communityName=SAN+DIEGO%2CCITY%2FSAN+DIEGO+CO&dfirm_kit_id=&dfirmCatId=12009&isCountySelected=&isCommSelected=&userType=G&urlName=&HashKey=&MemberKey=&mandatoryKey=&urlUserType=G&cat_state=13011&cat_county=13282&cat_community=338357)

Council Policy 600-14:

[http://clerkdoc.sannet.gov/RightSite/getcontent/local.pdf?DMW\\_OBJECTID=09001451800a991d](http://clerkdoc.sannet.gov/RightSite/getcontent/local.pdf?DMW_OBJECTID=09001451800a991d)

#### **I. Land Use**

No recommendations were made.

**J. Mineral Resources**

Staff cannot concur with the recommendation that a map be incorporated into the thresholds. A map, not a chart, is needed to represent the locations of different mineral resource zones and the maps provided by the California Geological Survey are high resolution on large sheets and depict the zones in irregular polygons throughout the city - using smaller sheets with a larger scale would render the map unreadable and using smaller sheets with the same scale would be paper-intensive. However, staff has added a link to the state site where the report and maps may be purchased:

[http://www.consrv.ca.gov/cgs/minerals/mlc/SMARA\\_pubs\\_2001.pdf](http://www.consrv.ca.gov/cgs/minerals/mlc/SMARA_pubs_2001.pdf)

**K. Noise**

Staff does not concur with modifying the construction noise significance threshold as recommended. The current significance threshold for temporary construction noise impacts is based on the City's Noise Ordinance ((SDMC Chapter 5, Article 9.5, Division 4). Should the Council wish to raise this threshold, staff recommend that this be accomplished by instead amending the Noise Ordinance. This staff recommendation would result in consistency within City regulations and EAS staff would then continue to rely on the Noise Ordinance for its evaluation. Moreover, amending the Noise Ordinance would also control ministerially-approved projects which are beyond the purview of CEQA. Staff has clarified the definition of "sensitive receptor" by listing in the thresholds the types of facilities that would be considered sensitive and the classes of people which would be expected to be present in the facilities.

**L. Paleontological Resources**

Staff cannot concur with the recommendation that a map be incorporated into the thresholds. The "Kennedy" maps of different geological units are high resolution on large sheets and depict the zones in irregular polygons throughout the city - using smaller sheets with a larger scale would render the map unreadable and using smaller sheets with the same scale would be paper-intensive. However, staff has added a link to the state site where the report and maps may be purchased: [http://www.consrv.ca.gov/CGS/rghm/rgm/250k\\_index/san\\_diego.htm](http://www.consrv.ca.gov/CGS/rghm/rgm/250k_index/san_diego.htm)

**M. Public Services and Facilities**

Staff concurs with the recommendation that the Guidelines be more explicit about what constitutes a significant impact for libraries, and park and recreational resources. However, staff believes that the best way to evaluate these impacts is to evaluate project consistency with community plans. For schools, Senate Bill 50 (codified in the State Education Code) specifically prohibits the City from using CEQA as a means to mitigate school fees saying

that, for CEQA purposes, impacts to schools are mitigated by payment of school fees.

In general, CEQA includes direction that impact analysis should be focused on physical changes to the environment (CEQA Guidelines Section 15064(d,e) and 15358(b)), and this is the way EAS has historically conducted environmental review. Staff recommends continuing this practice:

1. Projects which necessitate construction of new facilities are analyzed for the impacts resulting from construction of those new facilities.
2. Projects which have a design that results in a future inability to site new facilities (or to build such facilities) per General Plan or Community Plan goals are analyzed for the impacts to those goals.
3. Where projects are located on the urban/wildland interface, staff has in the past required that residential structures be sprinklered to address Fire response times (this measure does not address medical emergencies which represent a large portion of responses).

However, the following Guidelines Section does allow (the term “may” is defined in CEQA Guidelines Section 15005 as a permissive element which is left fully to the discretion of the public agencies involved) the City to consider overcrowding at a public facility to constitute a CEQA-defined impact suitable for analysis in environmental documents:

Guidelines Section 15064(e): “Alternatively, economic and social effects of a physical change may be used to determine that the physical change is a significant effect on the environment. If the physical change [e.g., the addition of more people to an overcrowded service area] causes economic or social effects on people, those adverse effects may be used as a factor in determining whether the physical change is significant. For example, if a project would cause overcrowding of a public facility and the overcrowding causes an adverse effect on people, the overcrowding would be regarded as a significant effect.”

Guidelines Section 15065 (Mandatory Findings of Significance): “A lead agency shall find that a project may have a significant effect on the environment and thereby require an EIR to be prepared for the project where any of the following conditions occur: ... (d) [t]he environmental effects of the project will cause substantial adverse effects on human beings, either directly or indirectly.”

Guidelines Section 15126.2: “The EIR shall also analyze any significant environmental effects the project might cause by bringing development and people into the area affected.”

Discussion from Guidelines Section 15131 (c): "...[e]ffects on facilities or services are not automatically regarded as significant effects of a project. The changes must be related to or caused by physical changes...If the project causes physical changes that affect the use of the facility the effects on use may be considered a significant effect in the same way as increases in traffic are often treated as significant effects."

Guidelines Section 15064(f): "The decision as to whether a project may have one or more significant effects shall be based on substantial evidence in the record of the lead agency."

Staff does not believe that substantial evidence exists to show that people living in an area that is substandard with respect to park and library facilities will de facto have an adverse effect (i.e., social and/or economic effect, mental health impacts are not considered to have potential significance) on those people. Instead, an adverse effect on people could exist if people are unable to access park and library facilities at the frequency or manner in which they wish to access them. In other words, any threshold should be based on actual use by people and not on a comparison with a standard. Moreover, if people do actually have access to park and library facilities, but the facilities are substandard (e.g., too small or too far apart), it is questionable whether substantial evidence exists to support the determination that the extra effort needed to access the facilities (the "adverse effect") is significant.

If the City concedes that the "extra effort" associated with accessing facilities is a significant effect (and "extra effort" is also needed to access some facilities that are located in areas with standard park and library services), project opponents will claim that impacts are significant even if standards are met. This argument would be bolstered by the *Communities for a Better Environment* case, which makes it clear that a significance determination cannot rely solely on compliance or non-compliance with a standard.

Should the policy decision be to consider significant the impacts of developing a project in an area where parks and libraries are currently substandard with respect to the number or spacing of facilities, staff would recommend that the significance thresholds also include a justifiable minimum project size (i.e., contribution to facility overcrowding) that staff should consider to have potentially significant impacts. There would be no basis for concluding that replacement of one single family residence with another would have a significant impact on public facilities. The threshold would need to be associated with the number of park and/or library users that a project would bring into a service area, probably as a percentage of the existing capacity and/or users of the facility. The City of Los Angeles uses 75 dwelling units and, where appropriate, 100,000 square feet of non-residential development as its threshold

The vast majority of development projects are not of sufficient size to exact acquisition or development of a park or library site; therefore, no mitigation would be available for projects with significant impacts associated with bringing new people into a substandard service area. The preparation of Environmental Impact Reports (rather than exemptions, negative declarations, or mitigated negative declarations) would, therefore, be required.

According to the Library Department, the following facilities, and therefore their service areas, are substandard (facilities in bold are part of the Bond Financing Plan and are scheduled to be replaced/expanded):

Dist 1: Carmel Valley (13,050), **University Community (10,000)**

**Dist 2: Ocean Beach (4,579), Pacific Beach (12,484)**

Dist 3: City Hts (14,850), **Kensington/NH (2,318)**, University Hts (3,749)

**Mission Hills (3,850), North Park (8,000)**

Dist 4: Beckwourth (8,000), Oak Park (5,200), **Paradise Hills (3,875), Skyline Hills (4,400)**

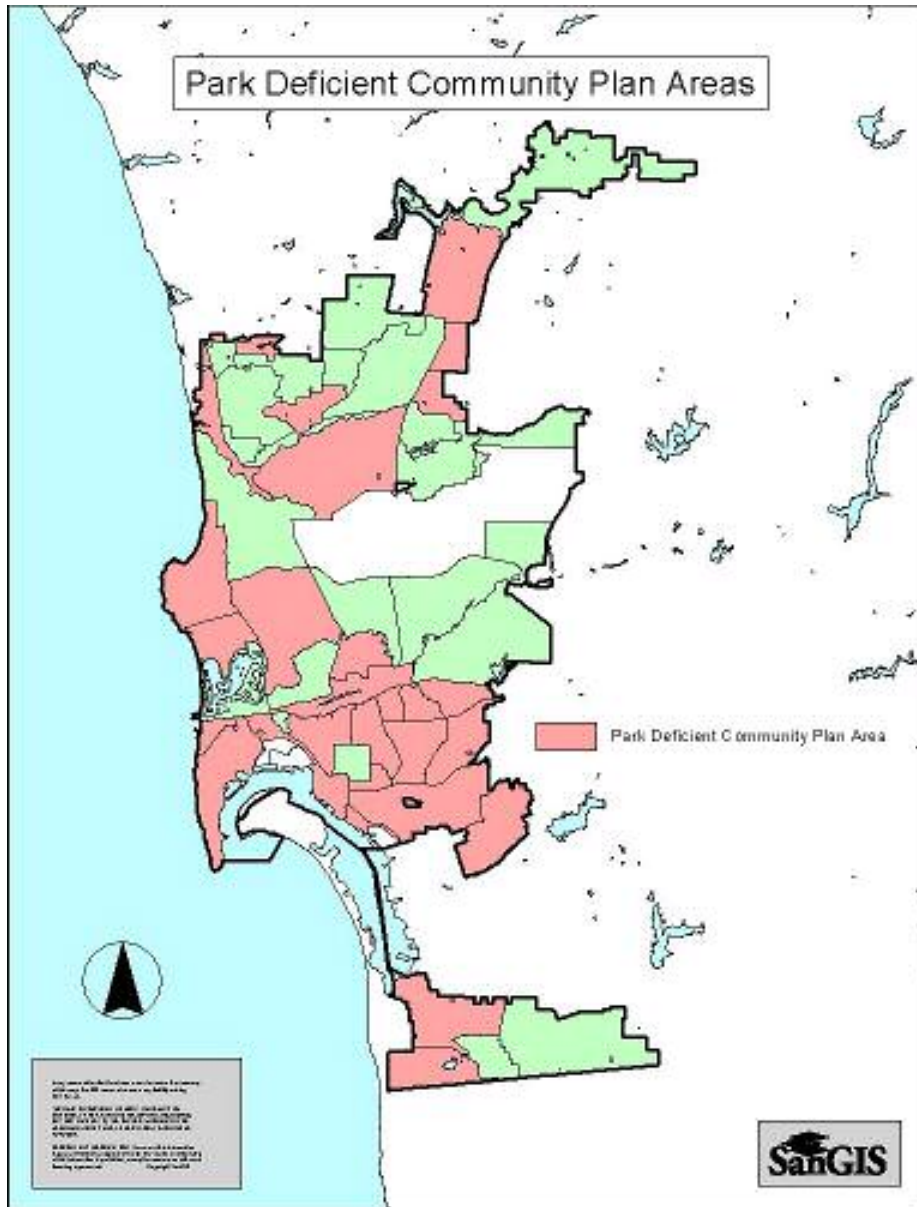
Dist 5: **Carmel Mt Ranch (13,102)**

Dist 6: Linda Vista (10,000), N Clairemont (5,136) Clairemont (4,437), **Balboa (5,092) Serra Mesa (4,860)**

Dist 7: Benjamin (6,900), **College Hts/Rolando (4,430, new 15,000 under construction) San Carlos (8,200), Tierrasanta (8,766)**

Dist 8: Logan Hts (3,967), Otay/Nestor (10,000 + 5,000 under construction), San Ysidro (4,089)

According to the Park and Recreation Department, the communities shown in the following map are substandard with respect to park and recreation facilities:



In response to the last comment, language has been added to indicate that the Police Department is to be included in the review of projects in excess of 75 dwelling units or 100,000 square feet of non-residential space.

## **N. Public Utilities**

### **1. Energy and Communication Systems**

Staff does not concur with the recommendation that direct impacts to electrical power, natural gas, solar energy, and communications be considered potentially significant in environmental documents other than Environmental Impact Reports. Appendix F of the State CEQA guidelines describes the considerations that are to be used in EIRs to address this issue. Staff has added language to the thresholds



to ensure that analysts and consultants refer to Appendix F during preparation of EIRs. The utility companies which serve the City of San Diego have plans which forecast demand, distribution, and transmission needs to maintain system integrity. These plans also forecast resource needs based on demand projections. The power system is designed to accommodate the maximum peak load of the City, which far exceeds the need of any one project. Mitigation for significant impacts to these utilities would consist of providing new energy sources or distribution. SDG&E recoups its costs of providing new electricity and gas facilities thereby mitigating any project impacts. In addition, staff is concerned about calling significant relatively minor impacts to communications facilities; for example, a project that blocks reception from an existing cellular telephone antenna. Staff does recommend continuing to assess as potentially significant the impacts associated with the physical construction of utility facilities, whether on or off site, in conjunction with the projects that require them.

The existing initial study checklist, applied to all projects, includes the question: Would the project result in the use of excessive amounts of power? Although not recommended, staff believes that a specific threshold could be established which would be based on the overall power consumption of a project. This threshold would be a constant regardless of the size or type of project since energy resources are the issue. Staff would like to facilitate discussion on the amount of energy that would constitute this threshold should a threshold be desired; however, it is envisioned that the threshold would be very large.

## 2. Solid Waste Generation/Disposal

The Environmental Services Department indicates that there is no reason to distinguish between industrial and commercial uses for purposes of assessing solid waste impacts. Therefore, while staff concurs that the thresholds should include a specific reference to industrial development, staff proposes that the threshold be 40,000 square feet (like the threshold for commercial development) rather than 47,000 square feet. According to the Environmental Services Department, the 10,000 square feet standard in the North Park Redevelopment Project Final EIR was a number used for ongoing use (not the construction and demolition phase). The 40,000 square feet is used for the construction and demolition phase of a project. Using this size threshold would subject large single family residences to the need to prepare a Waste Management Plan. Staff believes that this quantity of debris falls short of the definition of “cumulatively considerable” and does not believe that the substantial evidence needed to adopt this threshold is present. As an alternative, similar to the recommendation for noise impacts, staff could recommend formulation and adoption of an ordinance to require recycling procedures from ministerial and discretionary projects city-wide.

## 3. Water and Sewer, Water Conservation, Recycled Water Reuse

Staff does not concur that exceeding a projected population growth estimate in a Community Plan constitutes in and of itself constitutes substantial evidence for the need to evaluate potentially significant water supply/consumption impacts. The Land Development Review Division includes representatives from the Metropolitan Wastewater Department and Water Department on its project review teams for all projects, regardless of whether the project intensifies planned land uses. These reviewers ensure that the need for any new infrastructure is identified and installed so that the water use and sewage disposal from the project does not impact the distribution or collection systems.

Staff concurs that the Guidelines should evaluate whether a project requires construction of additional off-site water infrastructure; however, the impacts from this construction are dealt with in the other issue areas (e.g., biology, historical resources). Moreover, the existing initial study question: “Would the proposal result in a need for new systems, or require substantial alterations to existing utilities which would create physical impacts?....Water?” adequately addresses this concern.

#### **O. Transportation/Circulation/Parking**

Staff concurs that the thresholds could benefit by simplifying the language and will do so.

Staff does not concur with the recommendation that a project which provides less parking than is needed based on an analysis of its demand should necessarily have a significant impact. Currently, staff evaluates parking impacts based on a comparison of applicable standards or, in more unique cases, the results of a parking demand study. A significant effect is then found if the project is deficient in parking by more than 10% with respect to the standard or the study. As more urban infill projects are proposed which use transit-based incentives to reduce parking requirements, the recommendation would force preparation of more EIRs. In lieu of a strictly demand-based assessment, any change to the existing threshold should be based on the amount of deficiency which is considered acceptable rather than strict compliance with a standard or study.

#### **P. Visual Effects and Neighborhood Character**

It should be noted that SDMC Section 142.0740 precludes the installation of lights that cause light to spill onto adjacent property. Moreover, the MSCP addresses lighting in its Land Use Adjacency Guidelines. Staff concurs with the recommendation for specifying “light sensitive” land uses in this section and has re-written the section as follows: “[t]he project would shed substantial light onto adjacent, light-sensitive property or land use or would emit a substantial amount of ambient light into the nighttime sky. Uses considered sensitive to nighttime light include, but are not limited to, residential, some commercial and institutional uses, and natural areas”.

## **Q. Water Quality**

Staff concurs that the Water Quality discussion should specify the noted impacts and has added the following language:

“2. Adverse water quality effects could include:

- a. stream channelization/hardscaping which may affect water quality by reducing vegetation which shades and cools the water and
- b. channel lining which can decrease biological assimilation by increasing flow velocities and/or reducing permeability and adsorption potential (including bacteriological assimilation).”

## **R and S, Cumulative Effects and Mandatory Findings of Significance**

The referenced CEQA section has been corrected per the comment.

Like any other impact, CEQA requires cumulative impacts to be analyzed for potential significance in initial studies and EIRs; however, cumulative impacts need to be discussed in initial studies only if they are significant. Discussion of cumulative impacts, regardless of significance, is mandatory in EIRs. The absence of a threshold for “cumulatively considerable” in an issue area does not alter the City’s obligation to analyze cumulative impacts. Staff recommends that changes or additions to specific cumulative thresholds be made pursuant to inventories that will be prepared for the Master Environmental Assessment (MEA) being prepared in conjunction with the update to the Progress Guide and General Plan. In this manner, the thresholds can be prepared using substantial evidence developed by the MEA in the context of the entire city.